



**Permanent Select Committee
on Intelligence
U.S. House of Representatives**

September 29, 2020

Mr. Joseph B. Maher
Principal Deputy General Counsel and Senior Official
Performing the Duties of the Under Secretary for Intelligence and Analysis
Office of Intelligence and Analysis
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Maher:

In my September 23, 2020 letter, I made clear that the House Permanent Select Committee on Intelligence (“Committee”) would be prepared to resort to compulsory process if (1) the element of the Intelligence Community that you lead, the Department of Homeland Security’s (“Department” or “DHS”) Office of Intelligence and Analysis (“I&A”), failed to produce records requested by the Committee in connection with its ongoing investigation of I&A; and (2) DHS failed to authorize appropriate security clearances for attorneys of Mr. Brian Murphy before his rescheduled deposition on Friday, September 25, 2020.¹ Much to our disappointment, the Department has yet to authorize the clearances and, as a result, the Committee had to yet again postpone the deposition.

Nonetheless, in subsequent Committee communication and correspondence with the Department and I&A, the Committee offered a good faith extension until Monday, September 28, 2020, to resolve both outstanding matters.² Specifically, the Committee agreed to withhold a subpoena *duces tecum* if I&A identified with specificity which documents it would produce voluntarily and commit to producing those documents on or before October 1, 2020. In addition, the Committee—as an accommodation—agreed to withhold a testimonial subpoena to you if

¹ Letter from Chairman Adam B. Schiff to Mr. Joseph B. Maher, Principal Deputy General Counsel and Senior Official Performing the Duties of the Under Secretary for Intelligence and Analysis, Office of Intelligence and Analysis, U.S. Department of Homeland Security, September 23, 2020, *available at* https://intelligence.house.gov/uploadedfiles/20200923_hpsci_letter_to_dhs_re_clearances_and_documents.pdf.

² Committee Staff correspondence with U.S. Department of Homeland Security, Office of Legislative Affairs, September 25 and 26, 2020. *See also* Letter from Chairman Adam B. Schiff to Mr. Joseph B. Maher, Principal Deputy General Counsel and Senior Official Performing the Duties of the Under Secretary for Intelligence and Analysis, Office of Intelligence and Analysis, U.S. Department of Homeland Security, September 18, 2020, *available at* https://intelligence.house.gov/uploadedfiles/20200918_hpsci_letter_to_dhs_ia_re_investigation_and_documents.pdf.

DHS issued a temporary security clearance for at least one of Mr. Murphy's attorneys, thereby allowing the Committee to take Mr. Murphy's long delayed deposition this week.³

Despite the extension, DHS honored neither of the Committee's requests. As a result, the Committee has no choice but to resort to compulsory process.

As I stressed in my September 18 and 23 letters, the Committee has a responsibility to independently investigate and substantiate Mr. Murphy's serious allegations, and you and your office have a legal obligation to comply. The allegations, as the Committee has underscored repeatedly, fall squarely within the Committee's legislative jurisdiction and strike at the heart of the Committee's constitutional oversight responsibility.

Consistent with Rule 10 of the Committee's Rules of Procedure for the 116th Congress, the Committee compels DHS to produce by **Tuesday, October 6, 2020**, all documents, communications, and other records specified in the attached subpoena schedule.

In addition, the Committee also compels your appearance at a hearing of the Committee at **10:00 A.M. on Friday, October 2, 2020, in the Capitol Visitors Center (CVC) Auditorium**. You will be required to testify under oath as to why DHS is preventing a lawful Intelligence Community whistleblower—your own predecessor—from providing classified testimony to the Committee by delaying security clearances for his attorneys. You will also be required to testify about documents within I&A's possession, custody, and control, which I&A has yet to produce to the Committee, as well as your own knowledge of the matters under investigation. If deemed necessary to protect classified information, the Committee will hold, on the same day, a second round of questions in closed session in the Committee's classified hearing room in HVC-304.

³ Mr. Murphy's attorneys first requested on September 9, 2020—almost three weeks ago—that the Department process their security clearances for the purpose of representing Mr. Murphy before the Committee and the Department's Office of Inspector General. *See* Letter from Mark S. Zaid to Chad Mizelle, the Senior Official Performing the Duties of General Counsel, and Beth Spivey, Assistant Secretary for Legislative Affairs, U.S. Department of Homeland Security, September 9, 2020. The Committee also requested on September 11, 2020, that the Department expedite the requests, and has reiterated the request regularly. *See* Letter from Chairman Adam B. Schiff to Mr. Joseph B. Maher, Principal Deputy General Counsel and Senior Official Performing the Duties of the Under Secretary for Intelligence and Analysis, Office of Intelligence and Analysis, U.S. Department of Homeland Security, September 11, 2020, available at https://intelligence.house.gov/uploadedfiles/hpsci_letter_to_dhs_ia_acting_maher_re_investigation_scope.pdf.

The Department's irregular handling of this request reinforces concerns that political appointees at the Department have exerted undue influence or control over the security clearance process. Executive Branch departments and agencies, including elements of the Intelligence Community, regularly, and expeditiously process such temporary clearances for attorneys representing current and former officials testifying on classified matters before congressional, Inspector General, and other proceedings—including previously at the TS/SCI level for at least one of the attorneys representing Mr. Murphy.

As a career civil servant, the Committee welcomes and expects your full and complete cooperation and testimony. In our democracy, all career civil servants take an oath of office to support and defend the Constitution, and are ultimately accountable in their work to the American people and to their elected representatives in Congress.

Sincerely,

A handwritten signature in blue ink, reading "Adam B. Schiff". The signature is fluid and cursive, with the first name "Adam" and last name "Schiff" clearly legible, and "B." in the middle.

Adam B. Schiff
Chairman

CC The Honorable Devin Nunes, Ranking Member